

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2001-006342

08/04/2006

HON. GARY E. DONAHOE

CLERK OF THE COURT

D. Monroe

Deputy

IN RE THE MARRIAGE OF
CYNTHIA LEE THIMMESCH

TERI D MCCALL

AND

PETER ALLAN THIMMESCH

PETER ALLAN THIMMESCH
11337 STONEHOUSE PLACE
POTOMAC FALLS VA 20165

JOHN J TOMA PH D
2345 E THOMAS RD STE 275
PHOENIX AZ 85016

ORDERS ENTERED BY COURT

The Court acknowledges receipt of Petitioner's "Motions for Reappointment of Parenting Coordinator, for Status Conference and for Accelerated Ruling." Petitioner's pleading was mailed to Mr. Thimmesch on July 14, 2006. Mr. Thimmesch's response was due on August 3, 2006. The Court has not received a response from Mr. Thimmesch.

Rule 74, Arizona Rules of Family Court Procedure, allows the Court on its own motion to appoint a Parenting Coordinator. Following receipt of Dr. Toma's last report to the Court in which Dr. Toma alerted the Court that his term was expiring, this Court, on its own motion, reappointed Dr. Toma as the Parenting Coordinator. *See* Minute Entry dated July 13, 2006. Therefore, Petitioner's "Motion for Reappointment of Parenting Coordinator" is moot.

The Court does not believe that a status conference is needed at this time. The Court has reviewed all of the e-mails and Dr. Toma's report regarding the dispute over what time the

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children should be returned from Father's care. Frankly, after cutting through all of Mr. Thimmesch's sarcasm, his hostile and insulting tone, and his disrespectful and incendiary language, the Court does not find his position unreasonable. While the Court does not condone Mr. Thimmesch's tone or style of communication because it only serves to irritate, aggravate, raise resentment, is totally unproductive to resolving issues, increases the costs of this case to everyone and is not in the children's best interests, considering the travel time to Norwalk from his home and his desire to have a summer's end dinner with his children in Norwalk, the 8:00 p.m. return time seems reasonable. The Court sees no reason under the circumstances to not allow Mr. Thimmesch until 8:00 p.m. on August 5th to return the children to Mother's care.

Mother's request for the Court to "determine the parameters under which Dr. Toma, Mother and Mother's counsel must deal with Father" is the more difficult issue. Nothing this Court can do will solve the problem. However, the Court can attempt to manage the problem. The Court agrees that no one should have to tolerate abusive communications from any one involved in this case. That level of hostility between the parents is not in the children's best interests. It is inconceivable to this Court that the children have not been adversely affected by the total lack of respect and hostility expressed by one parent toward the other so vividly displayed in the communications provided to the Court.

It is time to put a stop to this nonsense. After reading all of the e-mails, it appears to the Court that the abusive communications are all from Mr. Thimmesch and Ms. Owensby. It appears from this Court's brief acquaintance with this case that the only thing Mr. Thimmesch responds to is negative reinforcement. For example, it was not until Judge Willett suspended his parenting time did Mr. Thimmesch follow through with the testing with Dr. Lavit. It appears to the Court that the parameters can and should be simple – the parties are to communicate by fax or e-mail (all parties are to keep copies) using a civil tone and the Court will sanction any party (Lauren Owensby's communications will be attributed to Mr. Thimmesch) who uses hostile, insulting, disrespectful or inflammatory language in any e-mail or fax by imposing one or more of the following sanctions: (1) suspension for prolonged periods of time all or portions of the offending party's parenting time, (2) suspension of the offending party's right to file any motion or petition with the court, (3) imposition of monetary fines as well (each fine will have to be paid in full before parenting time will be reinstated at the end of the associated suspension period), (4) imposition of other financial sanctions such as payment of attorney's fees, Parenting Coordinator's fees and costs, and (5) imposition of jail time. If a party persists in communicating in a negative fashion, sanctions will become more severe and his or her parenting time may be quickly lost. Then the parameters become narrow because there will be no need to communicate with that person during each suspension period. Eventually, if the abusive communications persist, all parenting time will be lost and there will be no need to communicate with that party during the remaining time of this case. The Court is of the opinion

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that the best interests of the children will be served by putting an end to the abusive manner of communication previously engaged in between the parties.

So, the parties can choose to engage in civil discourse about the best interests of their children or not. If one party chooses the latter option, the Court will impose sanctions.

IT IS HEREBY ORDERED denying the motion for a status conference.

IT IS FURTHER ORDERED allowing Mr. Thimmesch until 8:00 p.m. on August 5th to return the children to Mother's care at her father's home in Norwalk, Connecticut.

IT IS FURTHER ORDERED that the parties are to communicate with each other, the attorneys and the Parenting Coordinator by fax or e-mail using a civil tone without the use of hostile, insulting, disrespectful or inflammatory language in any e-mail or fax. If there is communication by phone, the same rule shall apply.

IT IS FURTHER ORDERED that each party read, sign and return a copy of his order bearing the parent's original signature to this Court on or before **September 5, 2006**. Failure to comply with this or any other provision of the Court's orders will result in the Court setting a contempt hearing. The copy bearing the party's original signature shall be sent to:

Hon. Gary E. Donahoe
Judge of the Superior Court
125 W. Washington, Suite 211
Phoenix, AZ 85003

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

[Note: Because of the time involved in processing a minute entry, the Court has sent a copy of this order to each of the parties, counsel and Dr. Toma at the e-mail addresses reflected in the attachments to Petitioner's motion.]

/ s / HON. GARY E. DONAHOE

JUDICIAL OFFICER OF THE SUPERIOR COURT

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I, Cynthia Lee Thimmesch, have read this order and understand it. I acknowledge that I must abide by all orders of the court and that I do not have the authority to unilaterally change, suspend or modify any court order. I am aware that failure to abide by any order of the court will result in some or all of the following sanctions being imposed against me:

- ☒ Payment of attorney's fees and costs
- ☒ Suspension or modification of parenting time
- ☒ Monetary sanctions
- ☒ Loss of my right to file pleadings in this case
- ☒ Time in jail

I am aware that at any future court hearing, one or more of the above sanctions will be imposed against me if the court finds that I have failed to abide by any order of the court. I hereby agree that I will act in good faith and abide by all court orders even though I may not totally agree with a particular provision of the court's order.

Cynthia Lee Thimmesch

I, Peter Allan Thimmesch, have read this order and understand it. I acknowledge that I must abide by all orders of the court and that I do not have the authority to unilaterally change, suspend or modify any court order. I am aware that I must pay child support in the amount and in accordance with the schedule ordered by the court and I agree to do so. I am aware that failure to abide by any order of the court will result in some or all of the following sanctions being imposed against me:

- ☐ Payment of attorney's fees and costs
- ☐ Suspension or modification of parenting time
- ☐ Monetary sanctions
- ☐ Loss of my right to file pleadings in this case
- ☐ Time in jail

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Peter Allan Thimmesch

All parties representing themselves must keep the Court updated with address changes.
A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/ssc/sschome.html>.